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3 UNITED STATES DISTRICT COURT  
4 NORTHERN DISTRICT OF CALIFORNIA

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MANUEL TOMAYO TORRES, JR.,

Plaintiff,

No. C 08-3442 PJH (PR)

v.

**ORDER EXTENDING TIME**

MIKE EVANS, et al.,

Defendants.

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This is a civil rights case filed pro se by a state prisoner. The clerk sent plaintiff a notice that he had not paid the filing fee or applied for leave to proceed in forma pauperis. He was warned that the case would be dismissed if he did not do one or the other within thirty days. Included with the clerk's notice was a copy of the court's form for IFP applications and a postage-paid return envelope.

Presumably in response to the clerk's notice, plaintiff mailed the court his copy of the clerk's notice and a "Trust Account Withdrawal Order." Both appear to be originals. The withdrawal order is a prison form used to request that a check be sent to an outside recipient. In his form plaintiff asks for a five-dollar withdrawal, which he says is for an "in forma pauperis fee," and asks that it be sent to this court. The form itself evidently was sent to the court in error, rather than a check. There is no way to know whose fault this is, but in any case plaintiff still has not paid the fee or applied for leave to proceed in forma pauperis.

Plaintiff should also note that even if the check had been sent to the court, it would have been for the wrong amount. Because this is a civil rights case, not a habeas case, the filing fee, as he was told in the clerk's notice, is \$350, not five dollars.

The time for plaintiff to either apply for leave to proceed in forma pauperis or pay the filing fee is **EXTENDED** to a date thirty days from the date this order is entered.

**IT IS SO ORDERED.**

4 || Dated: September 5, 2008.

 PHYLIS L. H.

*J* PHYLLIS J. HAMILTON  
United States District Judge

# **United States District Court**

For the Northern District of California

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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

MANUEL TOMAYO TORRES JR,

Case Number: CV08-03442 PJH

Plaintiff,

**CERTIFICATE OF SERVICE**

v.

MIKE EVANS et al,

Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on September 5, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Manuel Tomayo Torres V-12118  
Salinas Valley State Prison  
A5-142  
P.O. Box 1050  
Soledad, CA 93960

Dated: September 5, 2008

  
Richard W. Wiking, Clerk  
By: Nichole Heuerman, Deputy Clerk